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7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
Against:

13 **CARL DOUGLAS HIPSKIND**
1578 Las Canoas Road
Santa Barbara, CA 93190
14 Registered Nurse License No. 513519

15 Respondent.

Case No. 2005-187

OAH No. L-2005060345

**PETITION TO REVOKE
PROBATION**

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to
20 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
21 Registered Nursing.
- 22 2. On or about July 31, 1995, the Board of Registered Nursing issued
23 Registered Nurse License Number 513519 to Carl Douglas Hipskind (Respondent). The
24 Registered Nurse License was in effect at all times relevant to the charges brought herein and
25 will expire on November 30, 2008, unless renewed.
- 26 3. In a disciplinary action entitled "In the Matter of The Accusation Against
27 Carl Douglas Hipskind," Case No. 2005-187, the Board of Registered Nursing, Department of
28 Consumer Affairs, State of California, issued a decision, effective June 19, 2006, in which

1 Respondent's Registered Nurse License was revoked. However, the revocation was stayed and
2 Respondent's was placed on probation for a period of three (3) years with certain terms and
3 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Board of
6 Registered Nursing, Department of Consumer Affairs for the State of California, under the
7 authority of the following laws and the terms and conditions of the stipulation executed by
8 Respondent and his counsel. All section references are to the Business and Professions Code
9 unless otherwise indicated.

10 STATUTORY PROVISIONS

11 5. Section 2750 of the Business and Professions Code (Code) provides, in
12 pertinent part, that the Board may discipline any licensee, including a licensee holding a
13 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
14 2750) of the Nursing Practice Act.

15 6. Sections 118(b) and 2764 of the Code provides, in pertinent part, that the
16 expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
17 proceeding against the licensee or to render a decision imposing discipline on the license. Under
18 section 2811(b) of the Code, the Board may renew an expired license at any time within eight
19 years after the expiration.

20 7. On or about October 27, 2005 Respondent and his counsel signed a
21 Stipulation in Settlement and Disciplinary Order, which provided, in part, as follows:

22 "ACCEPTANCE

23 I have carefully read the above Stipulated Settlement and Disciplinary Order in
24 Board of Registered Nursing Case No. 2005-187 and have fully discussed it with my attorney,
25 Edgardo Gonzalez, Esq. I understand the stipulation and the effect it will have on my Registered
26 Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
27 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
28 Registered Nursing."

1 8. Said Stipulation further provided the following:

2 “12. **Violation of Probation.** If Respondent violates the conditions of his
3 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
4 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent’s
5 license.

6 If during the period of probation, an accusation or petition to revoke probation has
7 been filed against Respondent’s license or the Attorney General’s Office has been requested to
8 prepare an accusation or petition to revoke probation against Respondent’s license, the
9 probationary period shall automatically be extended and shall not expire until the accusation or
10 petition has been acted upon by the Board.

11 **FIRST CAUSE TO REVOKE PROBATION**

12 **(Failure to Comply with the Board’s Probation Program)**

13 9. At all times after the effective date of Respondent’s probation, Condition 2
14 of the stipulated order stated in part::

15 “2 **Comply with the Board’s Probation Program.** Respondent shall fully
16 comply with the conditions of the Probation Program established by the Board and cooperate
17 with representatives of the Board in its monitoring and investigation of the Respondent’s
18 compliance with the Board’s Probation Program. ...”

19 10. Respondent’s probation is subject to revocation because he failed to
20 comply with Probation Condition 2, referenced above in that he failed to comply with
21 requirements that he submit quarterly reports on three occasions commencing with April 7, 2007;
22 complete the Relapse Prevention and Plan Development that was due on May 31, 2007; failed to
23 provide verification of attendance for Nurse Support Group and AA/NA meetings, and failed to
24 comply with the requirements for random testing of biological fluids and drug testing. The facts
25 and circumstances regarding this violation are as follows:

26 **SECOND CAUSE TO REVOKE PROBATION**

27 **(Failure to Submit Written Reports)**

28 11. At all times after the effective date of Respondent’s probation, Condition 5

1 stated in part::

2 “5 **Submit Written Reports.** Respondent, during the period of probation,
3 shall submit or cause to be submitted such written reports/declarations and verification of actions
4 under penalty of perjury, as required by the Board. These reports/declarations shall contain
5 statements relative to Respondent’s compliance with all the conditions of the Board’s Probation
6 Program. Respondent shall immediately execute all release of information forms as may be
7 required by the Board or its representatives....”

8 12. Respondent’s probation is subject to revocation because he failed to
9 comply with Probation Condition 5, referenced above. The facts and circumstances regarding
10 this violation are as follows:

11 A. On or about August 18, 2006 met with and reviewed the terms of
12 his probation with a Board representative, including the requirement that he submit written
13 reports to the Board. Respondent attested under penalty of perjury that the terms were discussed
14 with him and that he understood said terms.

15 B. Respondent failed to submit Quarterly reports as follows: the
16 period January-March, 2007 that was due on April 7, 2007; the period April-June, 2007 that was
17 due on July 7, 2007 and the period July-September, 2007 that was due on October 7, 2007.

18 **THIRD CAUSE TO REVOKE PROBATION**

19 **(Failure to Complete a Relapse Prevention and Development Plan)**

20 13. At all times after the effective date of Respondent’s probation, Condition
21 10 stated:

22 “10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall
23 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
24 than six months prior to the end of his probationary term.

25 Respondent shall obtain prior approval from the Board before enrolling in the
26 course(s). Respondent shall submit to the Board the original transcripts or certificates of
27 completion for the above required course(s). The Board shall return the original documents to
28 Respondent after photocopying them for its records.”

1 14. Respondent's probation is subject to revocation because he failed to
2 comply with Probation Condition 10, referenced above. The facts and circumstances regarding
3 this violation are as follows:

4 A. On or about August 18, 2006 Respondent met with and reviewed
5 the terms of his probation with a Board representative, including the requirement that he submit
6 written reports to the Board. Respondent attested under penalty of perjury that the terms were
7 discussed with him and that he understood said terms.

8 B. On or about March 2, 2007, Respondent was notified by letter that
9 based upon a review of his file by Board representatives, he was required to enroll in a Relapse
10 Prevention and Plan Development course and complete said Relapse Prevention Plan by May 31,
11 2007.

12 C. Respondent failed to complete the Relapse Prevention and Plan
13 Development course that was due on May 31, 2007, as he had been instructed.

14 **FOURTH CAUSE TO REVOKE PROBATION**

15 **(Failure to Submit Verification of Attendance for Nurse Support Group and AA/NA**
16 **meetings.)**

17 15. At all times after the effective date of Respondent's probation, Condition
18 14A stated:

19 “(A) **Participate in Treatment/Rehabilitation Program for Chemical**
20 **Dependence** Respondent, at his expense, shall successfully complete
21 during the probationary period or shall have successfully completed prior
22 to commencement of probation a Board-approved treatment/rehabilitation
23 program of at least six months. As required, reports shall be submitted by
24 the program on forms provided by the Board. If Respondent has not
25 completed a Board-approved treatment/rehabilitation program prior to
26 commencement of probation, Respondent, within a reasonable time
27 approved by the Board, shall be enrolled in a program. If a program is not
28 successfully completed within a reasonable time approved by the Board,

1 the Board shall consider Respondent in violation of probation.

2 Based on Probation Program recommendation, each week Respondent shall be
3 required to attend at least one, but no more than five 12-step recovery meetings or
4 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse
5 support group as approved and directed by the Board. If a nurse support group is
6 not available, an additional 12-step meeting or equivalent shall be added.

7 Respondent shall submit dated and signed documentation confirming such
8 attendance to the Board during the entire period of probation. Respondent shall
9 continue with the recovery plan recommended by the treatment/rehabilitation
10 program or a licensed mental health examiner and/or other ongoing recovery
11 groups.”

12 A. On or about August 18, 2006 Respondent met with and reviewed
13 the terms of his probation with a Board representative, including the requirement that he enroll in
14 and provide proof of attendance at meetings of recovery and support groups to the Board.
15 Respondent attested under penalty of perjury that the terms were discussed with him and that he
16 understood said terms.

17 16. Respondent’s probation is subject to revocation because he failed to
18 comply with Probation Condition 14A, referenced above. The facts and circumstances regarding
19 this violation are as follows:

20 A. On or about August 18, 2006 Respondent met with and reviewed the terms
21 of his probation with a Board representative, including the requirement that he submit written
22 reports to the Board. Respondent attested under penalty of perjury that the terms were discussed
23 with him and that he understood said terms.

24 B. As a part of the August 18, 2006 meeting, Respondent was directed to
25 attend and provide proof that he had completed either 1 AA/NA meeting + 1 Support Group
26 meeting or 2 AA/NA meetings per week.

27 C. Respondent failed to provide the Board with proof of compliance with this
28 term and condition of his probation.

1 **FIFTH CAUSE TO REVOKE PROBATION**

2 **(Failure to Comply with the Random Biological Fluid Testing or Drug Testing Program)**

3 17. At all times after the effective date of Respondent's probation, Condition
4 14C stated:

5 **“(C) Submit to Tests and Samples**

6 Respondent, at his expense, shall participate in a random, biological fluid testing
7 or a drug screening program which the Board approves. The length of time and
8 frequency will be subject to approval by the Board. The Respondent is
9 responsible for keeping the Board informed of Respondent's current telephone
10 number at all times. Respondent shall also ensure that messages may be left at the
11 telephone number when he is not available and ensure that reports are submitted
12 directly by the testing agency to the Board, as directed. Any confirmed positive
13 finding shall be reported immediately to the Board by the program and the
14 Respondent shall be considered in violation of probation.

15 In addition, Respondent, at any time during the period of probation, shall fully
16 cooperate with the Board or any of its representatives, and shall, when requested,
17 submit to such tests and samples as the Board or its representatives may require
18 for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
19 controlled substances.

20 If Respondent has a positive drug screen for any substance not legally authorized
21 and not reported to the coordinating physician, nurse practitioner, or physician
22 assistant, and the Board files a petition to revoke probation or an accusation, the
23 Board may suspend Respondent from practice pending the final decision on the
24 petition to revoke probation or the accusation..”

25 18. Respondent's probation is subject to revocation because he failed to
26 comply with Probation Condition 14C, referenced above. The facts and circumstances regarding
27 this violation are as follows:

28 A. On or about August 18, 2006 Respondent met with and reviewed

1 the terms of his probation with a Board representative, including the requirement that he submit
2 tests and samples. Respondent attested under penalty of perjury that the terms were discussed
3 with him and that he understood said terms.

4 B. Respondent was instructed to register with Compass Vision (CV)
5 by March 31, 2007 to comply with the requirement that he submit to random biological fluid
6 testing or drug testing. Respondent failed to register with Compass Vision until July 10, 2007.

7 C. Thereafter, respondent failed to comply with the requirements for a
8 valid test on September 6, 2007 and November 8, 2007. Respondent was out of range of the call
9 ordering him to submit to testing on August 29, 2007 and September 13, 2007.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the Department of Consumer Affairs issue a decision:

13 1. Revoking the probation that was granted by the Board of Registered
14 Nursing in Case No.2005-187 and imposing the disciplinary order that was stayed thereby
15 revoking Registered Nurse License No. 513519 issued to Carl Douglas Hipkind;

16 2. Revoking or suspending Registered Nurse License No. 513519, issued to
17 Carl Douglas Hipkind;

18 3. Taking such other and further action as deemed necessary and proper.
19

20 DATED: 4/1/08

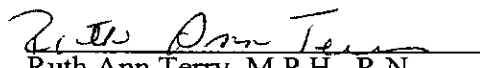
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23 
24 Ruth Ann Terry, M.P.H., R.N.
25 Executive Officer
26 Board of Registered Nursing
27 State of California
28 Complainant

Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2005-187

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CARL DOUGLAS HIPSKIND
1578 Las Canoas Road
Santa Barbara, CA 93190

Registered Nurse License No. 513519

Respondent.

Case No. 2005-187

OAH No. L-2005060345

Hearing Date: November 4, 2005

Location: Ventura City Hall
(San Miguel Room)

Time: 10:00a.m.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 19, 2006.

It is so ORDERED MAY 18, 2006.

LaFrancine W Tate

**FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS**

1 BILL LOCKYER, Attorney General
of the State of California
2 EARL R. PLOWMAN, State Bar No. 54339
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2536
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **CARL DOUGLAS HIPSKIND**
1578 Las Canoas Road
12 Santa Barbara, CA 93190

13
14 Registered Nurse License No. 513519

15 Respondent.

Case No. 2005-187

OAH No. L-2005060345

Hearing Date: November 4, 2005
Location: Ventura City Hall
(San Miguel Room)
Time: 10:00a.m.

16 **STIPULATED SETTLEMENT AND**
17 **DISCIPLINARY ORDER**

18
19 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to
20 the above-entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
23 the Board of Registered Nursing. She brought this action solely in her official capacity and is
24 represented in this matter by Bill Lockyer, Attorney General of the State of California and
25 individually by Earl R. Plowman, Deputy Attorney General.

26 2. Respondent Carl Douglas Hipskind (Respondent) is represented in this
27 proceeding by attorney Edgardo Gonzalez, Esq., whose address is 1300 Clay Street, Suite 600
28 Oakland, California 94612

1 . 3. On or about July 31, 1995, the Board of Registered Nursing issued
2 Registered Nurse License No. 513519 to Carl Douglas Hipkind (Respondent). The License was
3 in full force and effect at all times relevant to the charges brought in Accusation No. 2005-187
4 and will expire on November 30, 2006, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 2005-187 was filed before the Board of Registered
7 Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent.
8 The Accusation and all other statutorily required documents were properly served on Respondent
9 on April 21, 2005. Respondent timely filed his Notice of Defense contesting the Accusation. A
10 copy of Accusation No. 2005-187 is attached as exhibit A and incorporated herein by reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, fully discussed with counsel, and
13 understands the charges and allegations in Accusation No. 2005-187. Respondent has also
14 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
15 Settlement and Disciplinary Order.

16 6. Respondent is fully aware of his legal rights in this matter, including the
17 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
18 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
19 the right to present evidence and to testify on his own behalf; the right to the issuance of
20 subpoenas to compel the attendance of witnesses and the production of documents; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
24 each and every right set forth above.

25 **CULPABILITY**

26 8. Respondent admits the truth of each and every charge and allegation in
27 Accusation No. 2005-187.

28 9. Respondent agrees that his Registered Nurse License is subject to

1 discipline and he agrees to be bound by the Board of Registered Nursing (Board) 's imposition of
2 discipline as set forth in the Disciplinary Order below.

3 **CIRCUMSTANCES IN MITIGATION**

4 10. Respondent Carl Douglas Hipkind has never been the subject of any
5 disciplinary action. He is admitting responsibility at an early stage in the proceedings.

6 **CONTINGENCY**

7 11. This stipulation shall be subject to approval by the Board of Registered
8 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
9 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
10 and settlement, without notice to or participation by Respondent or his counsel. By signing the
11 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
12 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
13 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
14 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
15 action between the parties, and the Board shall not be disqualified from further action by having
16 considered this matter.

17 12. The parties understand and agree that facsimile copies of this Stipulated
18 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
19 force and effect as the originals.

20 13. In consideration of the foregoing admissions and stipulations, the parties
21 agree that the Board may, without further notice or formal proceeding, issue and enter the
22 following Disciplinary Order:

23 **DISCIPLINARY ORDER**

24 IT IS HEREBY ORDERED that Registered Nurse License No. 513519 issued to
25 Respondent Carl Douglas Hipkind (Respondent) is revoked. However, the revocation is stayed
26 and Respondent is placed on probation for three (3) years on the following terms and conditions.

27 **Severability Clause.** Each condition of probation contained herein is a
28 separate and distinct condition. If any condition of this Order, or any application thereof, is

1 declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all
2 other applications thereof, shall not be affected. Each condition of this Order shall separately be
3 valid and enforceable to the fullest extent permitted by law.

4 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
5 A full and detailed account of any and all violations of law shall be reported by Respondent to
6 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
7 compliance with this condition, Respondent shall submit completed fingerprint forms and
8 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
9 as part of the licensure application process.

10 **Criminal Court Orders:** If Respondent is under criminal court orders, including
11 probation or parole, and the order is violated, this shall be deemed a violation of these probation
12 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

13 2. **Comply with the Board's Probation Program.** Respondent shall fully
14 comply with the conditions of the Probation Program established by the Board and cooperate
15 with representatives of the Board in its monitoring and investigation of the Respondent's
16 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
17 within no more than 15 days of any address change and shall at all times maintain an active,
18 current license status with the Board, including during any period of suspension.

19 Upon successful completion of probation, Respondent's license shall be fully
20 restored.

21 3. **Report in Person.** Respondent, during the period of probation, shall
22 appear in person at interviews/meetings as directed by the Board or its designated
23 representatives.

24 4. **Residency, Practice, or Licensure Outside of State.** Periods of
25 residency or practice as a registered nurse outside of California shall not apply toward a reduction
26 of this probation time period. Respondent's probation is tolled, if and when he resides outside of
27 California. Respondent must provide written notice to the Board within 15 days of any change of
28 residency or practice outside the state, and within 30 days prior to re-establishing residency or

1 returning to practice in this state.

2 Respondent shall provide a list of all states and territories where he has ever been
3 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
4 provide information regarding the status of each license and any changes in such license status
5 during the term of probation. Respondent shall inform the Board if he applies for or obtains a
6 new nursing license during the term of probation.

7 5. **Submit Written Reports.** Respondent, during the period of probation,
8 shall submit or cause to be submitted such written reports/declarations and verification of actions
9 under penalty of perjury, as required by the Board. These reports/declarations shall contain
10 statements relative to Respondent's compliance with all the conditions of the Board's Probation
11 Program. Respondent shall immediately execute all release of information forms as may be
12 required by the Board or its representatives.

13 Respondent shall provide a copy of this Decision to the nursing regulatory agency
14 in every state and territory in which he has a registered nurse license.

15 6. **Function as a Registered Nurse.** Respondent, during the period of
16 probation, shall engage in the practice of registered nursing in California for a minimum of 24
17 hours per week for 6 consecutive months or as determined by the Board.

18 For purposes of compliance with the section, "engage in the practice of registered
19 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
20 work in any non-direct patient care position that requires licensure as a registered nurse.

21 The Board may require that advanced practice nurses engage in advanced practice
22 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
23 Board.

24 If Respondent has not complied with this condition during the probationary term,
25 and Respondent has presented sufficient documentation of his good faith efforts to comply with
26 this condition, and if no other conditions have been violated, the Board, in its discretion, may
27 grant an extension of Respondent's probation period up to one year without further hearing in
28 order to comply with this condition. During the one year extension, all original conditions of

1 probation shall apply.

2 7. **Employment Approval and Reporting Requirements.** Respondent
3 shall obtain prior approval from the Board before commencing or continuing any employment,
4 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
5 performance evaluations and other employment related reports as a registered nurse upon request
6 of the Board.

7 Respondent shall provide a copy of this Decision to his employer and immediate
8 supervisors prior to commencement of any nursing or other health care related employment.

9 In addition to the above, Respondent shall notify the Board in writing within
10 seventy-two (72) hours after he obtains any nursing or other health care related employment.
11 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated
12 or separated, regardless of cause, from any nursing, or other health care related employment with
13 a full explanation of the circumstances surrounding the termination or separation.

14 8. **Supervision.** Respondent shall obtain prior approval from the Board
15 regarding Respondent's level of supervision and/or collaboration before commencing or
16 continuing any employment as a registered nurse, or education and training that includes patient
17 care.

18 Respondent shall practice only under the direct supervision of a registered nurse
19 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
20 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
21 are approved.

22 Respondent's level of supervision and/or collaboration may include, but is not
23 limited to the following:

24 (a) Maximum - The individual providing supervision and/or collaboration is
25 present in the patient care area or in any other work setting at all times.

26 (b) Moderate - The individual providing supervision and/or collaboration is in
27 the patient care unit or in any other work setting at least half the hours Respondent works.

28 (c) Minimum - The individual providing supervision and/or collaboration has

1 person-to-person communication with Respondent at least twice during each shift worked.

2 (d) Home Health Care - If Respondent is approved to work in the home health
3 care setting, the individual providing supervision and/or collaboration shall have person-to-
4 person communication with Respondent as required by the Board each work day. Respondent
5 shall maintain telephone or other telecommunication contact with the individual providing
6 supervision and/or collaboration as required by the Board during each work day. The individual
7 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
8 site visits to patients' homes visited by Respondent with or without Respondent present.

9 9. **Employment Limitations.** Respondent shall not work for a nurse's
10 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
11 traveling nurse, or for an in-house nursing pool.

12 Respondent shall not work for a licensed home health agency as a visiting nurse
13 unless the registered nursing supervision and other protections for home visits have been
14 approved by the Board. Respondent shall not work in any other registered nursing occupation
15 where home visits are required.

16 Respondent shall not work in any health care setting as a supervisor of registered
17 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
18 nurses and/or unlicensed assistive personnel on a case-by-case basis.

19 Respondent shall not work as a faculty member in an approved school of nursing
20 or as an instructor in a Board approved continuing education program.

21 Respondent shall work only on a regularly assigned, identified and predetermined
22 worksite(s) and shall not work in a float capacity.

23 If Respondent is working or intends to work in excess of 40 hours per week, the
24 Board may request documentation to determine whether there should be restrictions on the hours
25 of work.

26 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall
27 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
28 than six months prior to the end of his probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$5189. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. **Violation of Probation.** If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

13. **License Surrender.** During Respondent's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to

1 take any other action deemed appropriate and reasonable under the circumstances, without
2 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
3 will no longer be subject to the conditions of probation.

4 Surrender of Respondent's license shall be considered a disciplinary action and
5 shall become a part of Respondent's license history with the Board. A registered nurse whose
6 license has been surrendered may petition the Board for reinstatement no sooner than the
7 following minimum periods from the effective date of the disciplinary decision:

8 (1) Two years for reinstatement of a license that was surrendered for any
9 reason other than a mental or physical illness; or

10 (2) One year for a license surrendered for a mental or physical illness.

11 14. **Mental Health Exam/Substance Abuse Assessment.** The Respondent
12 shall, within 45 days of the effective date of this decision, have a mental health examination
13 including psychological testing as appropriate to determine his capability to perform the duties
14 of a registered nurse. The examination must be performed by a licensed psychiatrist,
15 psychologist or other mental health practitioner, approved by the Board, who has experience in
16 the diagnosis and treatment of chemical dependency and alcoholism. The examiner must submit
17 a narrative report of the examination. All costs are the responsibility of the Respondent.

18 If Respondent is determined to be unable to practice safely as a registered nurse,
19 the licensed mental health care practitioner making this determination shall immediately notify
20 both the Probation Program and Respondent of this determination by telephone and Respondent
21 shall immediately cease practice and may not resume practice until notified in writing by the
22 Probation Monitor that he may engage in the practice of registered nursing. During this period of
23 suspension, Respondent shall not engage in any practice for which a license issued by the Board
24 is required, until the Probation Monitor has notified Respondent that a mental health
25 determination permits Respondent to resume practice.

26 If the examiner discovers that the Respondent is or has been dependent upon
27 drugs or alcohol or has had problems with drugs or alcohol (i.e., drug dependence in remission or
28 alcohol dependence in remission), then the Respondent must further comply with the following

1 additional terms and conditions of probation.

2 (A) **Participate in Treatment/Rehabilitation Program for Chemical Dependence**

3 Respondent, at his expense, shall successfully complete during the probationary
4 period or shall have successfully completed prior to commencement of probation
5 a Board-approved treatment/rehabilitation program of at least six months. As
6 required, reports shall be submitted by the program on forms provided by the
7 Board. If Respondent has not completed a Board-approved
8 treatment/rehabilitation program prior to commencement of probation,
9 Respondent, within a reasonable time approved by the Board, shall be enrolled in
10 a program. If a program is not successfully completed within a reasonable time
11 approved by the Board, the Board shall consider Respondent in violation of
12 probation.

13 Based on Probation Program recommendation, each week Respondent shall be
14 required to attend at least one, but no more than five 12-step recovery meetings or
15 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse
16 support group as approved and directed by the Board. If a nurse support group is
17 not available, an additional 12-step meeting or equivalent shall be added.

18 Respondent shall submit dated and signed documentation confirming such
19 attendance to the Board during the entire period of probation. Respondent shall
20 continue with the recovery plan recommended by the treatment/rehabilitation
21 program or a licensed mental health examiner and/or other ongoing recovery
22 groups.

23 (B) **Abstain From Use of Psychotropic (Mood-Altering) Drugs**

24 Respondent shall completely abstain from the possession, injection or
25 consumption by any route of all psychotropic (mood-altering) drugs, including
26 alcohol, except when the same are ordered by a health care professional legally
27 authorized to do so and are part of documented medical treatment. Respondent
28 shall have sent to the Board, in writing and within fourteen (14) days, by the

1 prescribing physician or dentist, a report identifying the medication, dosage, the
2 date the medication was prescribed, the Respondent's prognosis, the date the
3 medication will no longer be required, and the effect on the recovery plan, if
4 appropriate.

5 Respondent shall identify for the Board a single physician, nurse practitioner or
6 physician assistant who shall be aware of Respondent's history of substance abuse
7 and will coordinate and monitor any prescriptions for Respondent for dangerous
8 drugs, controlled substances or mood-altering drugs. The coordinating physician,
9 nurse practitioner, or physician assistant shall report to the Board on a quarterly
10 basis Respondent's compliance with this condition. If any substances considered
11 addictive have been prescribed, the report shall identify a program for the time
12 limited use of any such substances.

13 The Board may require the single coordinating physician, nurse practitioner, or
14 physician assistant to be a specialist in addictive medicine, or to consult with a
15 specialist in addictive medicine.

16 (C) **Submit to Tests and Samples**

17 Respondent, at his expense, shall participate in a random, biological fluid testing
18 or a drug screening program which the Board approves. The length of time and
19 frequency will be subject to approval by the Board. The Respondent is
20 responsible for keeping the Board informed of Respondent's current telephone
21 number at all times. Respondent shall also ensure that messages may be left at the
22 telephone number when he is not available and ensure that reports are submitted
23 directly by the testing agency to the Board, as directed. Any confirmed positive
24 finding shall be reported immediately to the Board by the program and the
25 Respondent shall be considered in violation of probation.

26 In addition, Respondent, at any time during the period of probation, shall fully
27 cooperate with the Board or any of its representatives, and shall, when requested,
28 submit to such tests and samples as the Board or its representatives may require

1 for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
2 controlled substances.

3 If Respondent has a positive drug screen for any substance not legally authorized
4 and not reported to the coordinating physician, nurse practitioner, or physician
5 assistant, and the Board files a petition to revoke probation or an accusation, the
6 Board may suspend Respondent from practice pending the final decision on the
7 petition to revoke probation or the accusation.

8 (D) Therapy or Counseling Program

9 Respondent, at his expense, shall participate in an on-going counseling program
10 until such time as the Board releases him from this requirement and only upon the
11 recommendation of the counselor. Written progress reports from the counselor
12 will be required at various intervals.

13
14
15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order in
17 Board of Registered Nursing Case No. 2005-187 and have fully discussed it with my attorney,
18 Edgardo Gonzalez, Esq.. I understand the stipulation and the effect it will have on my Registered
19 Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
20 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
21 Registered Nursing.

22 DATED: October 27th 2005

23
24 Carl Douglas Hipkind R.N.
25 CARL DOUGLAS HIPKIND, R.N.
26 Respondent
27
28

APPROVAL OF STIPULATION

I have read and fully discussed with my client, Respondent Carl Douglas Hipskind, R.N. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order resolving the charges and allegations filed against him in Board of Registered Nursing Accusation No. 2005-187. I approve its form and content.

DATED: 10-27-05

LAW OFFICES OF EDGARDO GONZALES, ESQ.

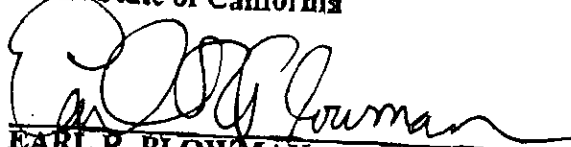

EDGARDO GONZALES, ESQ.
Attorneys for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs as final resolution of the charges and allegations in Accusation No. 2005-187..

DATED: October 27, 2005

BILL LOCKYER, Attorney General
of the State of California


EARL R. PLOWMAN
Deputy Attorney General

Attorneys for Complainant

Exhibit A
Accusation No. 2005-187

1 BILL LOCKYER, Attorney General
of the State of California
2 EARL R. PLOWMAN, State Bar No. 54339
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2536
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2005-187

12 CARL DOUGLAS HIPSKIND
P.O. Box 90315
13 Santa Barbara, CA 93190

ACCUSATION

14 Registered Nurse License No. 513519

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about July 31, 1995, the Board of Registered Nursing issued
23 Registered Nurse License No. 513519 to Carl Douglas Hipskind (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on November 30, 2006, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing
28 (Board), Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 STATUTORY PROVISIONS

3 4. Section 2750 of the Business and Professions Code (Code) provides, in
4 pertinent part, that the Board may discipline any licensee, including a licensee holding a
5 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
6 2750) of the Nursing Practice Act.

7 5. Section 2764 of the Code provides, in pertinent part, that the expiration of
8 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
9 against the licensee or to render a decision imposing discipline on the license. Under section
10 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
11 the expiration.

12 6. Section 2761 of the Code states:

13 "The board may take disciplinary action against a certified or licensed nurse or
14 deny an application for a certificate or license for any of the following:

15 "(a) Unprofessional conduct,

16

17 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
18 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
19 Nursing Practice Act] or regulations adopted pursuant to it.

20

21 "(f) Conviction of a felony or of any offense substantially related to the
22 qualifications, functions, and duties of a registered nurse, in which event the record of the
23 conviction shall be conclusive evidence thereof."

24 7. Section 2762 of the Code states:

25 "In addition to other acts constituting unprofessional conduct within the meaning
26 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
27 under this chapter to do any of the following:

28

1 "(c) Be convicted of a criminal offense involving the prescription, consumption,
2 or self-administration of any of the substances described in subdivisions (a) and (b) of this
3 section, or the possession of, or falsification of a record pertaining to, the substances described in
4 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
5 thereof."

6 8. Section 490 of the Code states:

7 "A board may suspend or revoke a license on the ground that the licensee has been
8 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
9 of the business or profession for which the license was issued. A conviction within the meaning
10 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
11 contendere. Any action which a board is permitted to take following the establishment of a
12 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
13 been affirmed on appeal, or when an order granting probation is made suspending the imposition
14 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
15 Penal Code."

16 9. Section 11173 of the Health and Safety Code states:

17 "(a) No person shall obtain or attempt to obtain controlled substances, or procure
18 or attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
19 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

20 "(b) No person shall make a false statement in any prescription, order, report, or
21 record, required by the division."

22 10. California Code of Regulations, title 16, section 1444, states:

23 "A conviction or act shall be considered to be substantially related to the
24 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
25 present or potential unfitness of a registered nurse to practice in a manner consistent with the
26 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the
27 following:

28

1 "(c) Theft, dishonesty, fraud, or deceit."

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may
3 request the administrative law judge to direct a licentiate found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 (Conviction of a Substantially Related Crime)

8 12. Respondent is subject to disciplinary action under sections 2761,
9 subdivisions (a) and (f) and 2762, subdivision (c), of the Code, as defined in section 490 of the
10 Code and California Code of Regulations, title 16, section 1444, in that Respondent was
11 convicted of a crime substantially related to the qualifications, functions and duties of a licensed
12 registered nurse, as follows:

13 a. On or about October 14, 2003, Respondent was convicted by the Court on
14 a plea of nolo contendere to one count of violating Business and Professions Code section
15 4324(a), a misdemeanor (forged prescription), in the Superior Court of California, County of
16 Ventura, Case No. 2003021663, entitled *The People of The State of California v. Carl Douglas*
17 *Hipskind*.

18 b. The circumstances surrounding the conviction are that on or about July 2,
19 2003, Respondent attempted to have a forged prescription filled at the Brand's Pharmacy in
20 Ventura, California. The pharmacist received confirmation from the physician that the
21 prescription had been forged.

22 **SECOND CAUSE FOR DISCIPLINE**

23 (Dishonest or Fraudulent Act)

24 13. Respondent is subject to disciplinary action under section 2761,
25 subdivisions (a) and (d), on the grounds of unprofessional conduct for violating Health and
26 Safety Code section 11173, subdivision (a) in conjunction with California Code of Regulations,
27 title 16, section 1444, subdivision (c), in that on or about July 2, 2003, Respondent forged a
28 prescription for hycodan syrup and attempted to fill it at a pharmacy.

1 THIRD CAUSE FOR DISCIPLINE

2 (False Statement in a Prescription)

3 14. Respondent is subject to disciplinary action under section 2761,
4 subdivision (d), on the grounds of unprofessional conduct for violating Health and Safety Code
5 section 11173, subdivision (b), in that Respondent falsified a script taken from a physician's
6 office, in an attempt to have the prescription filled, as more fully set forth in paragraphs 12 and
7 13, above.

8 PRAYER


9
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein
11 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

12 1. Revoking or suspending Registered Nurse License No. 513519, issued to
13 Carl Douglas Hipkind.

14 2. Ordering Carl Douglas Hipkind to pay the Board of Registered Nursing
15 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
16 Professions Code section 125.3;

17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: 4/12/05

19
20 
21 RUTH ANN TERRY, M.P.H., R.N.
22 Executive Officer
23 Board of Registered Nursing
24 Department of Consumer Affairs
25 State of California
26 Complainant